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EXAMINER

QUACH, TUAN N

ART UNIT

PAPER NUMBER

2826

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

For brevity, et al. is omitted.

Claims 22-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lur (5,924,006) taken with Koubuchi (6,261,883).

Regarding claims 22, 28, Lur teaches semiconductor device comprising semiconductor element 15 formed in substrate 10, first insulation 16 formed thereover, dummy patterns 24 first wiring 24 (the right most one), second wiring 24, third wiring 20. See, e.g., Fig. 7, column 2 line 35 to column 4 line 7. Lur lacks primarily the explicit recitation of the dummy wirings having different planar size.

Koubuchi teaches Fig. 34, column 23 line 40-52, dummy interconnections 34 including patterns of differing planar size. The advantages include improved flatness of the insulating film and decreased capacitance.

It would have been obvious to one skilled in the art in practicing the above invention to have employed dummy interconnections including patterns of differing planar size since such is conventional and advantageous as taught by Koubuchi to obtain improved flatness and decreased capacitance. Conversely, although Koubuchi does not recite the underlying semiconductor element and connection thereto via the third wiring, such would have been obvious as shown in Lur above wherein applications involving a given semiconductor element can be made and interconnection thereto can be obtained using a functional interconnection or wiring.

Regarding claim 23, the use of same layer to form the wirings correspond to process limitation not patentable over the structures as shown. Alternatively, such use would have been conventional and advantageous wherein the same layer is deposited and patterned as shown in Lur and Koubuchi, e.g., column 12 lines 54-57, Figs. 12, 13. Regarding claims 24, the arrangement of the first and second dummy wirings in row and/or column direction would have been conventional and obvious as shown in Fig. 34, 12, 13, etc. Regarding claim 26, the provision of the second insulating layer would have been obvious as shown in Lur, above, e.g., layer 28, and as shown in Koubuchi above wherein improved flatness of the insulating film is taught. Regarding claim 27, the use of aluminum or copper for the wiring layer is well known in the art as evidenced by Koubuchi, column 12 lines 54-57.

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The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-39 of U.S. Patent No. 6,693,315 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 corresponds to the claimed subject matter encompassed in claim 1 of '315, see, e.g., column 17 lines 55-67 and wherein the wirings now claimed are encompassed in the circuit elements in claim 1 of '315 the conductive islands as in claim 1 corresponds to the subject matter in claim 5 of '315.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Tuan Quach whose telephone number is 571-272-1717. The examiner can normally be reached on M-F from 8:30 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Nathan Flynn, can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tuan Quach
Primary Examiner